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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,951	01/09/2001	Radek Grzeszczuk	42390P10362	6181

7590

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EXAMINER

VO, CLIFF N

ART UNIT

PAPER NUMBER

2671

DATE MAILED: 05/11/2005

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/756,951

Applicant(s)

GRZESZCZUK ET AL.

Examiner

CLIFF N VO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-25 is/are allowed.
- 6) ☒ Claim(s) 26-30 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.
2. The indicated allowability of claims 26-30 is withdrawn in view of the newly discovered reference(s) to Beckwith, Jr. et al (U.S. Patent No. 4,682,160). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 26-30 are rejected under 35 U.S.C. 101 because they recite a data structure which does not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized.

In this case, claim 26 simply claims a data structure comprising a plurality of portions" which is not executed by any hardware. However, such data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the

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computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). See MPEP 2106, Chapter 2106 IV B 1. (a-b).

Claims 27-30 depend on claim 26 and they do not further recite any interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized. Thus, they are rejected with the same reasons as set forth in claim 26.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Beckwith, Jr. et al (U.S. Patent No. 4,682,160).

As per independent claim 26, Beckwith, Jr. et al disclose a method and system for generating a real time perspective view of the terrain lying along an aircraft's flight path accesses terrain data stored in a digital map generator and converts the data into a perspective viewing direction of the terrain on the display screen (col.4, lines 32-53) comprising a plurality of portions that are combinable without interpolation (col.17, lines 14-20) to display a plurality of points of the object with a first appearance for a first viewing direction and display the plurality of points with a second appearance for a second viewing direction (col.7, lines 3-8, 35-49; col.8, lines 4-24, i.e., each portion of

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the terrain map data is displayed (appearance) upon to the selection of the respective field of view).

Allowable Subject Matter

3. Claims 1-25 are allowed.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The reference of Katayama et al (U.S. Patent No. 6,704,041) is cited because it shows an image processing system for combining images.


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLIFF N VO whose telephone number is 571-272-7651. The examiner can normally be reached on 2nd Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MARK K ZIMMERMAN can be reached on 571-272-7653. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cliff Vo
4/15/2005



MARK ZIMMERMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600